

**WAUKESHA COUNTY BOARD OF ADJUSTMENT
SUMMARY OF MEETING**

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, May 12, 2004, at 6:30 p.m. in Room 255/259 of the Waukesha County Administration Center, 1320 Pewaukee Road, Waukesha County Wisconsin, 53188.

BOARD MEMBERS PRESENT: James Ward, Chairman
Robert Bartholomew
Paul Schultz
Mary Voelker
Walter Tarmann

BOARD MEMBERS ABSENT: None

SECRETARY TO THE BOARD: Peggy S. Pelikan

OTHERS PRESENT: Town of Merton Board of Adjustment
Joe and Sue Pecor, petitioners
Keith Dreg, Owner/Operator of Einstein Sign Company
Mark King, interest in Pecor case
David and Dawn Weimar, petitioners
Bill and Deb Eberle, petitioners
David and Joan Fritzler
Mark Wakefield, petitioner
John Gehringer, Wakefield attorney

The following is a record of the motions and decisions made by the Board of Adjustment. Detailed minutes of these proceedings are not produced, however, a taped record of the meeting is kept on file in the office of the Waukesha County Department of Parks and Land Use, and a taped copy or transcript is available, at cost, upon request.

SUMMARIES OF PREVIOUS MEETINGS:

Mr. Tarmann *I move we approve the Summary of the Minutes of the meeting of April 28, 2004 with the following corrections:*

Page 4 - "The motion was seconded by Ms. Voelker and carried with four yes votes."

Page 2 - "I move that we approve (remove "the") Mr Miller's request..."

The motion was seconded by Ms. Voelker and carried unanimously.

NEW BUSINESS:

BA04:031 WILLIAM AND DEBORAH EBERLE:

Ms. Voelker

I make a motion to adopt the staff's recommendation with the conditions stated in the Staff Report and for the reasons stated in the Staff Report.

The motion was seconded by Mr. Bartholomew and carried unanimously.

The staff's recommendation was for approval, with the following conditions:

- 1.) Prior to the issuance of a zoning permit, a stake-out survey showing the location of the residence and proposed deck must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
- 2.) The proposed deck shall be no closer to the shore, floodplain, or road than the existing residence.
- 3.) Prior to the issuance of a zoning permit, the Summit Town Board must approve the location of the proposed deck partially within the established road right-of-way, and evidence of that approval must be submitted to the Planning and Zoning Division Staff.
- 4.) A Declaration of Restrictions shall be prepared by the Planning and Zoning Division Staff, stating that the deck is located partially within the established road right-of-way and if, in the future, any portion of the deck should interfere with necessary road improvements, that portion of the deck must be removed at the owner's expense. Prior to the issuance of a zoning permit, the Declaration of Restrictions must be signed by the owner, notarized, and recorded in the Waukesha County Register of Deed's Office, and a copy furnished to the Planning and Zoning Division Staff.
- 5.) If any changes to the existing grade are proposed, a detailed grading and drainage plan, showing existing and proposed grades, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a zoning permit. This is to ensure the construction of a deck to the residence does not result in adverse drainage onto adjacent properties. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. The following information must also be submitted along with the grading and drainage plan: a timetable for completion, the source and type of fill, a complete vegetative plan including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The proposed deck would be no closer to the shore and the floodplain than the existing residence on the lakeside of the residence. The proposed deck would also be no closer to the road than the existing residence. The proposed deck would not adversely affect the lake or the neighboring property owners and is not contrary to the public interest. Therefore, the approval of special exceptions from the shore, floodplain, and road setback and the approval of a variance from the remodeling a non-conforming structure in excess of 50% of its fair market value, to permit the construction of a deck attached to the residence, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA04:032 GARY REICHERT:

Mr. Schulz

I make a motion to adopt the staff's recommendation with the conditions stated in the Staff Report and for the reasons stated in the Staff Report.

The motion was seconded by Ms. Voelker and carried unanimously.

The staff's recommendation was for approval, with the following conditions:

- 1.) The sign must not be located any closer than 44 ft. from the established road right-of-way of S.T.H. "83".
- 2.) The sign must not exceed 20 ft. in height, and the face of the sign shall not exceed 107 sq. ft. in size as proposed.
- 3.) A zoning permit must be issued by the Planning and Zoning Division Staff prior to the addition to the existing sign.
- 4.) If the design of the sign changes from the design submitted to the Planning and Zoning Division staff, see attached (Exhibit "A"), a new design must be reviewed and approved by the Planning and Zoning Division staff, prior to the issuance of a Zoning permit.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Approval of the requested variance, with the recommended conditions, allows the petitioner reasonable use of the property consistent with the requirements of the Ordinance. The property is located in a business district where signs are expected and needed to attract retail business. The additional 28 sq. ft. is in a decorative addition to the top of the sign and will include the address of the property; the net signage identifying the tenants is not changing. The new sign will enhance the aesthetics of the area. In addition, the sign will not be any closer to the road right-of-way than was previously approved by the Board of Adjustment. Therefore, the request as conditioned will not adversely affect the surrounding property owners and would not be contrary to the public interest, and therefore is in conformance with the purpose and intent of the Ordinance.

BA04:025 DAVID WIEMAR

Mr. Bartholomew

I make a motion to adopt the staff's recommendation with the conditions stated in the Staff Report and for the reasons stated in the Staff Report with the following changes and additions to the conditions and reasons:

Condition #2 shall read: The storage area above the garage shall not be accessible through the residence or via permanent stairs from the garage. The ceiling height of the storage area above the garage shall be no more than 6 ft.

Condition #6 shall be removed.

An additional reason shall be added to read: The existing residence does not have a basement and therefore it is reasonable that the petitioner request additional floor area to make up for the lack of storage space.

The motion was seconded by Ms. Voelker and carried with four yes votes and one no vote.

The staff's recommendation was for approval, with the following conditions:

- 1.) The total floor area ratio on the property must not exceed 29.1% (2,851 sq. ft.) as proposed.
- 2.) The storage area above the garage shall not be accessible through the residence or via permanent stairs from the garage.
- 3.) The proposed construction must be a minimum of 28 ft. from the established road right-of-way of Northwoods Lane and a minimum of 9.4 ft. from the east lot line. The dimensions shall be measured to the outer edges of the walls, provided the overhangs do not exceed two (2) ft. in width. If the overhangs exceed two (2) ft. in width, the building must be located the additional distance from the side lot lines, the road, and the lake, as the overhangs exceed two (2) ft. in width.
- 4.) The replacement patio must not be any bigger in size than the existing patio and shall not extend any closer to the shore than the existing patio.
- 5.) The proposed dormers on the lakeside of the residence shall not be constructed any closer to the shore than the existing residence. The proposed dormer on the northwest side of the residence shall not be any closer to the west lot line than the existing residence.
- 6.) Prior to the issuance of a zoning permit, the Environmental Health Division must certify that the existing septic system is adequate for the proposed construction, or a sanitary permit for a new waste disposal system must be issued and a copy furnished to the Planning and Zoning

Division Staff.

- 7.) Prior to the issuance of a zoning permit, a stakeout survey with elevations showing the location of the residence, the proposed garage addition, and the patio in compliance with the aforementioned conditions, shall be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
- 8.) Prior to the issuance of a zoning permit, a complete set of house plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
- 9.) In order to ensure the construction of an addition to the residence does not result in adverse drainage onto adjacent properties, a detailed grading and drainage plan, showing existing and proposed grades, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a zoning permit. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. The following information must also be submitted along with the grading and drainage plan: a timetable for completion, the source and type of fill, a complete vegetative plan including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage.
- 10.) The first floor of the garage shall be placed at or above the flood protection elevation (899.9 ft. above mean sea level). Fill shall be used to elevate the garage so as to meet the above. The fill shall not be less than one (1) foot below the flood protection elevation for that particular area and the fill shall extend at such elevation at least fifteen (15) feet beyond the limits of the structure. Where such distance cannot be achieved because of lot lines or other similar constraints, said fill elevation shall extend as far as is practical, resulting in no slope conditions at its terminus, which may adversely affect surface water drainage on adjacent properties. Upon completion of the foundation of the residence and attached garage, certification shall be obtained from a registered land surveyor that the floor elevations are in conformance with the above conditions. A copy of that certification must be submitted to the Town of Merton Building Inspector and the Planning Division staff for review and approval.
- 11.) Whether the structure has been floodproofed must be verified by a professional engineer and documentation must be submitted to the Planning and Zoning Division Staff prior to July 2, 2004. If such documentation has not been submitted prior to this date, citations will be issued.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approval of the request for variances from the shore setback, floodplain setback, road setback, open space, floor area ratio and remodeling a non-conforming structure in excess of 50% of its fair market value as well as approval of a special exception from the offset requirements, with the

recommended conditions will permit the construction of an attached garage addition, dormers, interior remodeling, the relocation of the entrance to the residence and the replacement of the existing patio. The proposed construction would not be any closer to the shore, floodplain, road, or the side lot lines than the existing residence. The addition, as conditioned, will increase the floor area ratio on the property and will create more open space. In addition, the residence has already been improved more than 50% of its fair market value. The approval of this request, as recommended, is not contrary to the public interest. Therefore, the approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA04:026 JOSEPH AND SUSAN PECOR

Mr. Tarmann

I make a motion to adopt the staff's recommendation with the conditions stated in the Staff Report and for the reasons stated in the Staff Report with the addition of the following condition:

Add Condition #10 to read: The storage area above the garage shall not be accessible through the residence and will have a pull-down staircase in the garage for access. The ceiling height of the storage area above the garage shall be no more than 6 ft.

The motion was seconded by Ms. Voelker and carried unanimously.

The staff's recommendation was for approval, with the following conditions:

- 1.) Existing structures on the property must be removed prior to the construction of the new single-family residence and attached garage.
- 2.) The proposed residence and attached garage must meet the offset, road setback, and shore setback requirements. Any decks and/or patios must meet all setback requirements with the exception of the floodplain setback. The dimensions shall be measured to the outer edges of the walls, provided the overhangs do not exceed two (2) ft. in width. If the overhangs exceed two (2) ft. in width, the building must be located the additional distance from the side lot lines, the road, and the lake, as the overhangs exceed two (2) ft. in width.
- 3.) The first floor of the structure shall be placed two feet above the flood protection elevation (901.9 ft. above mean sea level). The fill shall not be less than one (1) foot below the flood protection elevation for the particular area and the fill shall extend at such elevation, at least fifteen (15) feet beyond the limits of the structure. Where such distance cannot be achieved because of lot lines or other similar constraints, said fill elevation shall extend as far as is practical, resulting in no slope conditions at its terminus which may adversely affect surface water drainage on adjacent properties.

- 4.) The proposed residence may not have a full basement or crawl space.
- 5.) Prior to the issuance of a zoning permit, a stakeout survey showing the location of the residence, attached garage, and decking in compliance with the aforementioned conditions, shall be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
- 6.) Prior to the issuance of a zoning permit, a complete set of house plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
- 7.) Prior to the issuance of a zoning permit, the Environmental Health Division must certify that the existing septic system is adequate for the proposed construction, or a sanitary permit for a new waste disposal system must be issued and a copy furnished to the Planning and Zoning Division staff.
- 8.) In order to ensure the construction of a new residence does not result in adverse drainage onto adjacent properties, a detailed grading and drainage plan, showing existing and proposed grades, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a zoning permit. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. The following information must also be submitted along with the grading and drainage plan: a timetable for completion, the source and type of fill, a complete vegetative plan including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage.
- 9.) Upon completion of the foundation of the residence and attached garage, certification shall be obtained from a registered land surveyor that the floor elevations are in conformance with the above conditions. A copy of that certification must be submitted to the Town of Merton Building Inspector and the Planning and Zoning Division staff for review and approval.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approval of this request, with the recommended conditions, will permit the construction of a new residence and attached garage, elevated above the floodplain and in compliance with the floodplain district requirements. The approval of this request, as recommended, will result in a lateral expansion into the floodplain, however, having a new structure which meets the above requirements will minimize the impact of the new residence on the floodplain and the lake, while still permitting a reasonable use of the property. Finally, the approval of this request, as recommended, is not contrary to the public interest. Therefore, the approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

BA04:033 MARK WAKEFIELD

Ms. Voelker

I make a motion to adopt the staff's recommendation with the conditions stated in the Staff Report and for the reasons stated in the Staff Report with the following changes to the conditions:

Condition #1 shall read: The screen porch addition and decking shall be no closer to the north lot line than proposed.

The following shall be added to Condition #2: The stairs shall be no wider than 4 ft. and both the stairs and the boardwalk shall be constructed in a conforming location.

The motion was seconded by Mr. Bartholomew and carried unanimously.

The staff's recommendation was for approval, with the following conditions:

- 1.) The screen porch addition and decking shall be no closer to the north lot line than the existing residence.
- 2.) The screen porch and decking additions shall be no larger in size than are proposed herein.
- 3.) If any changes to the existing grade are proposed, a detailed grading and drainage plan, showing existing and proposed grades and any proposed retaining walls, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a zoning permit. This is to ensure the construction of the proposed screen porch and decking does not result in adverse drainage onto adjacent properties. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. The following information must also be submitted along with the grading and drainage plan: a timetable for completion, the source and type of fill, a complete vegetative plan including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The proposed construction would not be any closer to the side lot lines than the existing residence. The approval of this request, as recommended, is not contrary to the public interest. Therefore, the approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

OTHER ITEMS REQUIRING BOARD ACTION:

NONE

ADJOURNMENT:

Ms. Voelker

I move we adjourn this meeting at 8:47p.m.

The motion was seconded by Mr. Bartholomew and carried unanimously.

Respectfully submitted,

Peggy S. Pelikan
Secretary, Board of Adjustment

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